



FAMILY COURT ADVISORY COMMISSION

MEETING MINUTES

March 12, 2021

The Family Court Advisory Commission (FCAC) met via WebEx on Friday, March 12, 2021. The meeting came to order at 10:07 AM. FCAC Chair Judge Galen Braddy advised everyone that the meeting was subject to North Carolina's Open Meetings laws and that an attendee link had been made available to the public. DeShield Greene called roll. The following FCAC members, North Carolina Administrative Office of the Courts (NCAOC) staff, and guests were present via WebEx:

FCAC Members

Judge G. Galen Braddy, Chair
Regina Billings
Stephanie Gibbs
Judge John Greenlee
Cheryl Howell
Judge Beth Keever
Sonyia Leonard
Gerald Mack
Judge Lisa Menefee
TeAndra Miller
Nikki Smith
Rose Stout
Judge Donna Stroud
Lori Wainright
Shirley Webb-Owens
Judge Amanda Wilson

NCAOC Staff

Ryan Boyce, Deputy Director
Lori Cole, Court Management Specialist
DeShield Greene, Court Management Specialist
Tara Minter, Court Management Specialist
Stephanie Smith, Court Management Specialist

Guests

Judge Beth Dixon, District Court Judge, District 19C
Lindsay Harrison, Permanency Strategy Coordinator, DHHS

Welcome

Judge Braddy welcomed everyone to the meeting. DeShield Greene introduced NCAOC's new Deputy Director, Ryan Boyce.

Uniform Parentage Act

Judge Beth Dixon explained that about ten years ago, the NC Supreme Court handed down a decision in a case called *Bozeman v. Jarrell* that ruled a non-biological intended parent of an ART (assisted reproductive technologies) conceived child did not have parent status. Judge Dixon has discussed many scenarios with Cheryl Howell about this decision, including, for example, if an egg from woman A is





implanted in woman B who delivers the child, who is the parent? That scenario is still not clearly answered in NC law. In 2018, she researched the topic for her LLM program, and her article has been published in the Campbell Law Review. The Uniform Parentage Act (UPA) that was released in 2017 is a comprehensive model legislation that answers every scenario she and Cheryl Howell have discussed. The UPA has been promulgated by scholars who have provided other uniform acts that NC relies on, like the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and the Uniform Commercial Codes (UCC).

If the UPA is passed in NC, it would bring clarity and consistency to our courts as well as prevent unnecessary litigation and unnecessary adoption proceedings. The UPA gives all children conceived through ART the same acceptance as artificial insemination, which has been the law in NC since 1971 and it was passed without controversy. The goal of the UPA is to provide that same level of normalcy to every form of official reproductive technologies. It is child centered so it does not depend on the gender or marital status of an intended parent.

Until legislation is passed, courts are going to be deciding these issues on a case by case basis which could potentially lead to inconsistent results depending on which county a person lives. Judge Dixon would like to have this addressed by the legislature before it is addressed by the courts because it is a matter of public policy. She shared documents about the UPA and resolutions that other organizations have issued endorsing the UPA. The 2017 version of the UPA that contains the provisions about ART has been passed in four states: California, Washington, Vermont, and Rhode Island. It is pending in the legislatures of Pennsylvania, Connecticut, and Maine.

Judge Dixon invited the FCAC to consider supporting the UPA legislation for North Carolina – especially the two provisions relating to ART. With 40% of children in NC born to unmarried parents and about a 2% birth rate through assisted reproductive technologies (which is between 2400 and 2500 children each year), this impacts a relatively small amount of births, but it is a significant amount.

Judge Beth Keever noted that similar legislation was proposed about ten years ago and did not go far in the legislature, but much has changed since then, notably same sex marriage. She asked if anyone was aware of the status of this issue with the Family Law Council and Estates Division at the Bar Association but no one on the FCAC had current information.

Deputy Director Ryan Boyce shared that if the FCAC recommends supporting this proposal, and with Director Heath's permission, he is happy to work with AOC to pass it along and start conversations with the judiciary chairs and the legislature. The Senate's filing deadline is April 6 and the House deadline is April 20.

The FCAC voted to approve the establishment of a Uniform Parentage Act Subcommittee to explore potential legislation and work in conjunction with Deputy Director Boyce. Cheryl Howell volunteered to chair the committee to gather information for the FCAC to decide how to move forward. Judge Menefee, Stephanie Gibbs, Judge Keever, and Judge Dixon agreed to serve as members of the Subcommittee.





Approval of Minutes

Judge Greenlee made a motion to approve the December 18, 2020 meeting minutes as written. Judge Menefee seconded the motion. The meeting minutes were unanimously approved.

Family Court Annual Report

Judge Menefee moved to approve the annual family court report and Sonynia Leonard seconded the motion. The Commission voted to approve the report.

Family Court Updates

Online Information: DeShield Greene reported that information about how to become a family court was recently added to the Family Court webpage on nccourts.gov which includes necessary steps prior to funding, pre-implementation strategies, and what happens after funding is approved. This is a great resource to direct colleagues who may be interested in what is involved in becoming a family court. Lori Cole explained that NCAOC will be working with court leadership in Cabarrus who have indicated continued interest in becoming a family court district. In addition, NCAOC will be developing a plan for expansion of family courts, and it will be balanced with existing staff deficits.

DeShield Greene asked if the FCAC may want to consider updating items listed in the appendices of the Best Practices document that was drafted over 20 years ago.

Appendix A: Best Practice FCAC Recommendations: Some things in this section appear to have been updated in 2016 but several of the items may still be out of date. For example, the minimum staffing level, mandatory cases (several of those listed are exclusively within the clerk's purview), endorsing hearing officers, moving family court cases up in priority (this was completed several years ago), and requiring a divorce packet (guide and file packets are now available online to everyone).

Appendix B: Trauma Informed Judicial Training Component: DeShield Greene shared that the FCA from District 5 has suggested adding a training guideline requirement for trauma-informed practices under the social issues category, listed together with child development and substance abuse. Alternatively, it could be added as a separate mandatory component. Trauma-informed court practice is a growing trend nationwide. Family court staff and custody mediators will have an opportunity to participate in training on this topic next month and judges will hear about it in a Special Topics Seminar from the School of Government later this month.

The Commission agreed to consider whether and what parts of the Best Practices need to be updated prior to the next meeting. DeShield and Lori will circulate the appendices to the group with the pertinent sections highlighted and collect comments for the June 11 meeting.

DeShield explained that the only legislation for family court is currently in the Session Law from 1998 that introduced family courts as a pilot program. Other court programs have legislation that addresses





the purpose and administration, such as custody mediation. Proposing legislation could give stability and credibility to the program. It is also possible that recommendations from the FCAC (e.g., staffing levels, the family court purpose, case types to be managed) could be codified. The Commission is not ready to propose legislation at this time.

District Permanency Collaboratives

Lindsay Harrison reported that to improve safe and timely permanency for children in foster care, the NC Division of Social Services (NC DSS) and the NC Administrative Office of the Courts (NCAOC) are using an approach called District Permanency Collaboratives. Planning began in 2016 and Collaboratives were rolled out across the state in 2018-2019.

District Permanency Collaboratives exist to improve permanency outcomes in a specific judicial district. The central question for each Collaborative is: *"Is what we are doing getting the intended outcome...timely permanency for children?"*

Collaboratives meet on at least a quarterly basis to discuss local performance and identify ways to improve it. Collaborative participants include (but are not limited to) directors and attorneys from county child welfare agencies, judges (chief and/or juvenile court), district administrators and attorney advocates from the GAL program, parent attorneys, and clerks of court in the district.

As of January 2020, there are 25 Judicial Districts actively meeting, eight Districts in the process of planning their first meeting, and eight Districts not meeting.

Judge Braddy from Pitt County and Judge Menefee from Forsyth mentioned the benefit they've seen in their districts as a result of the DPCs. In Forsyth, an outgrowth of the DPC meeting has been the attorneys have started meeting as a group on a regular basis to talk and work on permanency items separate from the DPC.

NCAOC Court Programs Updates

Access and Visitation (A&V)

Lori Cole shared that the Parent Education and A&V program websites have been translated to Spanish and are now live online. The parent education materials and verification survey are also available in Spanish.

Custody Mediation

Stephanie Smith is thrilled to be collaborating with family court to host an online training about trauma and trauma-informed court practices. Mediators and family court staff will participate in training together next month.

Custody mediation continues to offer orientation online live training both statewide and locally. There is also a self-directed online orientation for those not able to participate in the live events. Mediations are





also being done virtually across the state using Zoom. There is one mediator vacancy at present. Stephanie and Kari have trained four new mediators online during the pandemic.

Human Trafficking

Tara Minter provided an update on current Human Trafficking projects:

- House Bill 41 / Senate Bill 35 will amend the marriage law allowing people to marry at age eighteen eliminating current exceptions.
- NC Human Trafficking Commission will partner with the NC Coalition Against Human Trafficking to host webinars this year.
- The NC Human Trafficking Commission is exploring having an in-person NC Human Trafficking Commission Annual Symposium. Last year's symposium was canceled due to the pandemic.
- The NC Human Trafficking Commission staff want to learn about the Missing & Murdered Indigenous Women (MMIW) challenge to explore how to have an impact on the issue. Several Indigenous groups live in North Carolina and are at high risk of becoming human trafficking victims. Tara is locating experts to educate the staff.

Odyssey and Rules Update

Judge Stroud reported that work on the implementation of eFiling will be integrating the domestic violence eFiling programs with the new Odyssey case management system. One of the issues is to make sure the new eFiling rules will be clear to all because the DV system and business court will all be integrated into the new eFiling system. She encouraged everyone to contribute concerns or suggestions with her as this integration occurs.

Judge Stroud stated that the Supreme Court is currently considering the updates recommended by the Rules Advisory Commission in addition to the statutory amendments that were done last summer. She hopes they will be out soon as they address a lot of the issue about eFiling. Updates to the Rules of Civil Procedure will be an ongoing project. Some technology and innovations that were introduced during the pandemic may be incorporated long term.

Meeting Dates

The next meeting of the FCAC will be Friday, June 11. At this time, the meeting will be held via WebEx. Future meeting dates for 2021 are September 17, and December 10. The locations will be determined as the meeting dates approach.

Submitted by Lori Cole

